

be monitored, and methane field screening techniques will be performed on a quarterly basis to ensure gas is not migrating off-site.

F. Explanation of Significant Differences

In January 1995, EPA Region 4 issued an Explanation of Significant Differences (ESD) for the Newport Dump Site to provide information on modifications to the selected remedy as originally described in the ROD, and to notify the public of O&M activities being conducted at the Site. The actions documented in the ESD included: the installation of a new drainage culvert, the construction of a french drain, and the shut down of the leachate collection system. In May 1990, EPA Region 4 discontinued use of the leachate collection system because it appeared to be collecting groundwater, and operating the system was not providing a higher degree of protection to the environment. Since turning the system off, no problems have been encountered, and no significant increases in contamination in the surface water in the Licking River have occurred. In fact, the levels of contaminants in the leachate samples collected in the Five-Year Review were consistent with the surrounding groundwater.

At this time, all appropriate Fund-financed response under CERCLA has been implemented, and no further response action by responsible parties is appropriate.

G. State Concurrence to Delete Newport Dump Site

EPA, with concurrence of the Commonwealth of Kentucky, believes that the following criterion for deletion have been met: (1) EPA has implemented all appropriate response actions required; and (2) All appropriate response under CERCLA has been implemented. Subsequently, EPA is proposing deletion of Newport Dump Site from the NPL. Documents supporting this action are available from the docket.

Dated: February 23, 1996.

Phyllis P. Harris,

Acting Regional Administrator, U.S. EPA Region 4.

[FR Doc. 96-5530 Filed 3-7-96; 8:45 am]

BILLING CODE 6560-50-P

40 CFR Part 300

[FRL-5436-8]

National Oil and Hazardous Substances Pollution Contingency Plan National Priorities List

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of intent to delete A.L. Taylor Superfund Site, Brooks, Kentucky from the National Priorities List.

SUMMARY: The Environmental Protection Agency (EPA) Region 4 announces its intent to delete the A.L. Taylor Site (the Site) from the National Priorities List (NPL) and requests public comments on this proposed action. In July, 1988, EPA issued a notice announcing its intent to delete this Site. Prior to the final determination to delete the Site the Agency adopted a policy of waiting until after a five-year review of a site to consider delisting. The first five-year review of the A.L. Taylor Site has been completed, and the results indicated that the remedy is protective of the human health and environment. Therefore, this notice is being revised to account for recent Site conditions. The NPL constitutes Appendix B of 40 CFR part 300 which is the National Oil and Hazardous Substances Contingency Plan (NCP), which EPA promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA), as amended. EPA and the Commonwealth of Kentucky have determined that the Site poses no significant threat to public health and the environment and therefore, further remedial measures pursuant to CERCLA are not appropriate.

DATES: Comments may be submitted by April 17, 1996.

ADDRESSES: Comments may be mailed to: Liza I. Montalvo, Remedial Project Manager, North Superfund Remedial Branch, U.S. Environmental Protection Agency, Region 4, 345 Courtland Street, N.E., Atlanta, GA 30365.

Comprehensive information on this Site is available through the public docket which is available for viewing at the A.L. Taylor Superfund Site information repositories at the following locations:

Ridgeway Memorial Library, 127 Walnut Street, Shepherdsville, KY, 40165.

U.S. EPA Record Center, 345 Courtland Street, N.E., Atlanta, GA, 30365.

FOR FURTHER INFORMATION CONTACT: Liza I. Montalvo, U.S. EPA Region 4, 345

Courtland St., N.E., Atlanta, GA 30365, 404-347-3555 Ext. 2030 or 1-800-435-9233 Ext. 2030.

SUPPLEMENTARY INFORMATION:

I. Introduction

The Environmental Protection Agency (EPA), Region 4, announces its intent to delete the A.L. Taylor Site, Brooks, Kentucky, from the National Priorities List (NPL), Appendix B of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), 40 CFR Part 300, and requests comments on its deletion. EPA identifies sites that appear to present a significant risk to public health, welfare, or the environment and maintains the NPL as the list of these sites. As described in § 300.425(e)(3) of the NCP, sites deleted from the NPL remain eligible for remedial actions in the unlikely event that conditions at the site warrant such action.

The EPA will accept comments on the proposal to delete this Site for thirty days after publication of this notice in the Federal Register.

Section II of this notice explains the criteria for deleting sites from the NPL. Section III discusses the procedures that EPA is using for this action. Section IV discusses the A.L. Taylor Superfund Site and explains how the Site meets the deletion criteria.

II. NPL Deletion Criteria

Section 300.425(e) of the NCP provides that releases may be deleted from, or recategorized on the NPL where no further response is appropriate. In making a determination to delete a release from the NPL, EPA shall consider, in consultation with the State, whether any of the following criteria have been met:

(i) Responsible parties or other persons have implemented all appropriate response actions required;

(ii) All appropriate fund-financed response under CERCLA have been implemented, and no further action by responsible parties is appropriate; or

(iii) The remedial investigation has shown that the release poses no significant threat to public health or the environment and, therefore, taking of remedial measures is not appropriate.

Even if a site is deleted from the NPL, where hazardous substances, pollutants, or contaminants remain at the site above levels that allow for unlimited use and unrestricted exposure, EPA's policy is that a subsequent review of the site will be conducted at least every five years after the initiation of the remedial action at the site to ensure that the site remains protective of public health and the environment.

III. Deletion Procedures

The following procedures were used for the intended deletion of this Site: (1) EPA Region 4 has recommended deletion and has prepared the relevant documents, (2) The Commonwealth of Kentucky has concurred with the deletion decision, (3) Concurrent with this Revised Notice of Intent to Delete, a local notice has been published in local newspapers and has been distributed to appropriate federal, state and local officials, and other interested parties. This local notice announces a thirty (30) day public comment period, provides an address and telephone number for submission of comments, and identifies the location of the local site repository; and (4) Region 4 has made all relevant documents available in the Regional Office and local site information repository.

Deletion of the Site from the NPL does not itself create, alter, or revoke any individual's rights or obligations. The NPL is designed primarily for informational purposes and to assist Agency management. As mentioned in Section II of this Notice, § 300.425(e)(3) of the NCP states that the deletion of a site from the NPL does not preclude eligibility for future response actions.

For deletion of this Site, EPA Region 4 will accept and evaluate public comments on EPA's Revised Notice of Intent to Delete before making a final decision to delete. If necessary, the Agency will prepare a Responsiveness Summary to address any significant public comments received.

A deletion occurs when the EPA Regional Administrator places a final action in the Federal Register. Generally, the NPL will reflect deletions in the final update following the notice. Public notices and copies of the Responsiveness Summary will be made available to local residents by Region 4.

IV. Basis for Intended Site Deletion

The following Site summary provides the Agency's rationale for the proposal to delete this Site from the NPL.

A. Site Background

The A.L. Taylor Site, sometimes referred to as "The Valley of the Drums," is a 13-acre site located in Brooks, Bullitt County, Kentucky, near the community of Brooks. The Site is approximately 1.3 miles west of Interstate 65 and 1.7 miles northwest of Brooks, Kentucky, off of State Highway 1020. The Site is bordered to the north and west by woods and to the south and east by several private rural residences and a golf course.

B. History

The A.L. Taylor Site was first identified as a waste disposal site by the Kentucky Department of Natural Resources and Environmental Protection Cabinet (KDNREPC) in 1967. The paint and coating industries in the Louisville area were the primary waste generators using the Site. Solvent wastes, from these generators, were disposed in drums by burning the wastes in the open pits. Some drums were emptied into open pits, cleaned and recycled. Soil from the nearby hillsides was used to cover the pits. During the later years of operation, thousands of drums were stored on the ground surface.

KDNREPC first became involved with the Site in 1967 after receiving reports of a fire that had been burning for approximately one week. After investigating the Site, the State noted that an approved sanitary landfill could be operated by Mr. A.L. Taylor at this location with proper permitting. However, Mr. Taylor did not apply for a sanitary landfill permit, and continued receiving and disposing of waste on the Site, under the business name of the A.L. Taylor Drum Cleaning Service, until November 1977.

In January 1979, at the request of KDNREPC, EPA responded to releases of oil and hazardous substances at the A.L. Taylor Site. Under the authority of Section 311 of the Clean Water Act, the EPA Emergency Response Branch addressed the releases of pollutants into Wilson Creek by constructing interceptor trenches and a temporary water treatment system, securing leaking drums, and segregating and organizing drums on site. The EPA operated and maintained the temporary treatment system on site until December 1979, when the KDNREPC assumed responsibility for the system.

The EPA's final count of drums located on the Site after the 1979 emergency response action was 17,051 drums, of which 11,628 were empty. In 1980, KDNREPC contacted five Responsible Parties who identified and removed approximately 20 percent of the drummed waste remaining on the surface. The five generators contacted include: Ford Motor Co.; Reliance Universal, Inc.; Louisville Varnish Co.; George W. Whitesides Co.; and Kurfee's Coating, Inc. Following this removal, about 4,200 drums remained.

C. Characterization of Risk

In 1981, an EPA inspection revealed that deteriorated and leaking drums, were again discharging pollutants into Wilson Creek. EPA, responding under

the emergency provisions of CERCLA, upgraded the existing treatment system and moved the remaining 4,200 drums from the Site for recycling or disposal. The Site was then regraded to promote positive drainage towards Wilson Creek, thus reducing the amount of ponded water and minimizing surface erosion. Although, these measures eliminated the drummed waste from the surface, contaminated soils and buried drums remained on site.

Analytical data was collected during several site actions, including the two immediate removals and the Remedial Investigation. In all, approximately 140 compounds were identified. The chemicals found most often and in the highest concentrations were: xylene; acetone; toluene; phthalates; methyl ethyl ketone; vinyl chloride; fluoranthene; dichloroethylene; methylene chloride; anthracene; alkyl benzene; aliphatic acids.

PCBs were detected in low concentrations and several metals, including barium, zinc, copper, strontium, magnesium, and chromium, were detected in concentrations exceeding background levels.

The highest concentrations of organic contaminants detected on-site, other than from drum samples, were from liquid samples collected in pits which EPA constructed to test for subsurface contamination. Some of the same compounds were detected in water samples from borings located down-gradient of these test pits. A Feasibility Study was completed in 1982 by Ecology and Environment, Inc., and a Record of Decision (ROD) was finalized by EPA in June 1986. The ROD identified groundwater and surface water (Wilson Creek) as potential routes of exposure to hazardous substances, and selected a final remedy for the Site.

In April 1987, the remedial measures selected in the ROD were commenced by Haztech, Inc. These measures included the installation of a clay cap, a perimeter drainage system, monitoring wells, and a security fence.

In the fall of 1988, reseeded and regrading of the cap was found to be necessary due to erosion problems. In March 1989, all remedial construction was completed.

D. Operation and Maintenance

Operations and Maintenance (O&M) activities were performed by Ebasco Services, Inc. The O&M activities included groundwater sampling over five quarters from September 1988, through February 1990. The Commonwealth of Kentucky will be conducting the remaining 29 years of routine O&M with funds they received

from a cost recovery settlement with responsible parties for the Site.

E. Five-Year Review

EPA finalized the first Five-Year Review for the A.L. Taylor Site in June 1992, in which groundwater, surface water, leachate, sediment and gas samples were collected. The review concluded that the remedy was still protective of the human health and environment.

F. State Concurrence to Delete A.L. Taylor Site

EPA, with concurrence of the Commonwealth of Kentucky, believes that the following criterion for deletion have been met: (1) EPA has implemented all appropriate response actions required; and (2) All appropriate response under CERCLA has been implemented. Consequently, EPA is proposing deletion of A.L. Taylor Site from the NPL. Documents supporting this action are available from the docket.

Dated: February 20, 1996.

Phyllis P. Harris,

Acting Regional Administrator, U.S. EPA Region 4.

[FR Doc. 96-5531 Filed 3-7-96; 8:45 am]

BILLING CODE 6560-50-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 440

[MB-071-P]

RIN 0938-AG36

Medicaid Program; Coverage of Personal Care Services

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Proposed rule.

SUMMARY: In accordance with the provisions of section 13601(a)(5) of the Omnibus Budget Reconciliation Act of 1993, which added section 1905(a)(24) to the Social Security Act, this proposed rule would specify the revised requirements for Medicaid coverage of personal care services furnished in a home or other location as an optional benefit, effective for services furnished on or after October 1, 1994. In particular, this proposed rule would specify that personal care services may be furnished in a home or other location by any individual who is qualified to do so. Additionally, we are proposing two minor changes to the Medicaid

regulations concerning home health services.

DATES: Comments will be considered if we receive them at the appropriate address, as provided below, no later than 5 p.m. on May 7, 1996.

ADDRESSES: Mail written comments (one original and three copies) to the following address: Health Care Financing Administration, Department of Health and Human Services, Attention: MB-071-P, P.O. Box 7517-0517, Baltimore, MD 21207.

If you prefer, you may deliver your written comments (one original and three copies) to one of the following addresses: Room 309-G, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201, or Room No. C5-11-17, 7500 Security Boulevard, Baltimore, MD 21244-1850.

Because of staffing and resource limitations, we cannot accept comments by facsimile (FAX) transmission. In commenting, please refer to file code MB-071-P. Comments received timely will be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, in Room 309-G of the Department's offices at 200 Independence Avenue SW., Washington, DC, on Monday through Friday of each week from 8:30 a.m. to 5 p.m. (phone: (202) 690-7890).

FOR FURTHER INFORMATION CONTACT: Terese Klitenic (410) 786-5942.

SUPPLEMENTARY INFORMATION:

I. Background

Title XIX of the Social Security Act (the Act) authorizes grants to States for medical assistance (Medicaid) to certain individuals whose income and resources are insufficient to meet the cost of necessary medical care. The Medicaid program is jointly financed by the Federal and State governments and administered by the States. Within Federal rules, each State chooses eligible groups, types and ranges of services, payment levels for most services, and administrative and operating procedures. The nature and scope of a State's Medicaid program is described in the State plan that the State submits to HCFA for approval. The plan is amended whenever necessary to reflect changes in Federal or State law, changes in policy, or court decisions.

Under section 1902(a)(10) of the Act, States must provide certain basic services. Section 1905(a) of the Act defines the services States may provide as medical assistance. Personal care services historically have been permitted under the Secretary's discretionary authority under current

section 1905(a)(25) of the Act until the enactment of legislation, described below. Currently, regulations concerning personal care services are located at 42 CFR 440.170(f).

II. Legislation Concerning Personal Care Services

Before the enactment of the legislation discussed below, a State had the option to elect to cover personal care services under its Medicaid State plan. Although not specifically mentioned in section 1905(a) of the Act, personal care services could be covered under section 1905(a)(22) of the Act (redesignated as section 1905(a)(25) of the Act on November 5, 1990), under which a State may furnish any additional services specified by the Secretary and recognized under State law. In § 440.170(f), the Secretary specified that personal care services may be covered.

Section 4721 of the Omnibus Budget Reconciliation Act of 1990 (OBRA '90) (Pub. L. 101-508, enacted on November 5, 1990) amended section 1905(a)(7) of the Act to include personal care services as part of the home health services benefit and to impose certain conditions on the provision of personal care services, effective for services furnished on or after October 1, 1994. This amendment would have had a significant effect since, under section 1902(a)(10)(D) of the Act, home health services are a mandatory benefit for all Medicaid recipients eligible for nursing facility services under the State plan. Thus, had section 1905(a)(7) of the Act not been further amended (as discussed below) before the effective date of section 4721 of OBRA '90, personal care services would have become a mandatory benefit for all recipients eligible for nursing facility services, effective October 1, 1994.

Before the provisions of OBRA '90 became effective, the Omnibus Budget Reconciliation Act of 1993 (OBRA '93) (Pub. L. 103-66) was enacted on August 10, 1993. Section 13601(a)(1) of OBRA '93 amended section 1905(a)(7) of the Act to remove personal care services from the definition of home health services. Additionally, section 13601(a)(5) of OBRA '93 added a new paragraph (24) to section 1905(a) of the Act, to include payment for personal care services under the definition of medical assistance. Under section 1905(a)(24) of the Act, personal care services furnished to an individual who is not an inpatient or resident of a hospital, nursing facility, intermediate care facility for the mentally retarded, or institution for mental disease is an optional benefit for which States may provide medical assistance payments.